



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105

October 25, 1991

Margaret A. Pietrasz, Esquire
JAFEE, TRUTANICH, SCATENA & BLUM
250 Montgomery Street
San Francisco, CA 94104

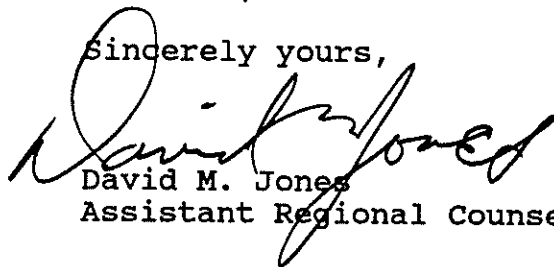
Re: Petroleum Recycling Corporation
TSCA-09-91-0002

Dear Ms. Pietrasz:

Again, we are forwarding our proposed Consent Agreement and Final Order to be used in the settlement of the subject administrative enforcement action for your review. If after you have had an opportunity to review the enclosed Agreement with your client and the document is found acceptable, please cause the original and two copies to be executed by the appropriate official at Petroleum Recycling Corporation and return the same to me at the address above.

Upon receipt of the copies executed by the Respondent we shall obtain the signature of the appropriate Regional officials, file a copy with the Regional Hearing Clerk, Region 9 and return a fully executed copy to you for your file. We request that you return the executed copies as soon as possible, but in any event on or before the close of business November 12, 1991.

Sincerely yours,


David M. Jones
Assistant Regional Counsel

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:

PETROLEUM RECYCLING
CORPORATION,

Respondent.

Docket No. TSCA-09-91-0002

CONSENT AGREEMENT
AND
FINAL ORDER

I

This administrative proceeding for the assessment of a civil penalty was initiated pursuant to Section 16(a) of the Toxics Substances Control Act, as amended (T.S.C.A.), [15 U.S.C. § 2615(a)]. The action was instituted by a Complaint and Notice of Opportunity for Hearing (Complaint) issued on December 5, 1990. The Complaint, which is incorporated herein by this reference, charged Petroleum Recycling Corporation (Respondent) with the violation of 40 C.F.R. §§ 761.20 (e), 761.60(a) and (d), 761.65 and Section 15(1)(c) of T.S.C.A. [15 U.S.C. § 2614(1)(c)] at the facility operated by Respondent located at Signal Hill, California, Fontana, California and San Diego, California (Facility). Complainant is the United States Environmental Protection Agency (EPA), Region 9.

II

For the purpose of this proceeding, without trial or other actual litigation of the issue(s) or any adjudication of the facts set forth in the Complaint and in order to avoid disruption of orderly business activity and the expense of protracted and costly litigation, Respondent and Complainant admit and agree that the Regional Administrator, EPA Region 9, has jurisdiction of the subject matter of the action set out in the Complaint and over the parties thereto, pursuant to 15 U.S.C. § 2615 and 40 C.F.R. § 22.04(a). Respondent agrees not to contest the Complainant's jurisdiction to issue and enforce this Consent Agreement and Final Order.

III

Respondent neither admits nor denies the specific factual allegations set out in the Complaint. Respondent hereby waives any rights which it may have to an administrative or judicial hearing on any issue(s) of law or fact set forth in the Complaint including but not limited to its right under Section 16(a)(2)(A) of T.S.C.A. to request a hearing. Respondent consents to the terms of this Consent Agreement and Final Order. The terms of this Consent Agreement and Final Order constitute a full settlement of the civil administrative action filed under the docket number above. If Respondent fulfills the terms and conditions of this Consent Agreement and Final Order, Respondent shall be deemed to be in full satisfaction of the violation(s) charged in the Complaint and no other claims, injunctions or any other civil action will be brought or initiated by Complainant against Respondent based on, as a result of or in connection with the violations charged in the

Complaint.

IV

By signing this Consent Agreement and Final Order, Respondent agrees to pay as the full amount of the civil penalty the sum of THIRTY-FIVE THOUSAND DOLLARS in lieu of the civil penalty proposed in the Complaint of SIXTY-FIVE THOUSAND DOLLARS. The penalty adjustment set forth herein above is based upon (1) Respondent's good faith efforts to come into compliance with T.S.C.A. and the implementing regulations and (2) the cooperation with the EPA during settlement negotiations in the form of representations by Respondent's representatives. In addition to payment of the civil penalty as set forth herein above, Respondent has agreed to perform certain tasks some of which are more fully described in a letter signed by Respondent and attached hereto and marked as Exhibit "A". The penalty payment shall be sent to:

EPA - Region 9
Regional Hearing Clerk
P. O. Box 360863M
Pittsburgh, PA 15251.

In the event Respondent issues any public statement regarding the supplement enforcement project described in Exhibit "A" and performed under this Article IV, Respondent shall include a statement that the commitment to perform such project by Respondent was in exchange for credit against penalties in settlement of an enforcement action brought by the EPA.

V

Respondent in executing this Consent Agreement and Final Order agrees that Respondent will use Respondent's best efforts to come into compliance with all applicable requirements of T.S.C.A. and the implementing regulations particularly the following:

1. Respondent shall implement the standards of 40 C.F.R. § 761.20(e) which requires the maintenance of certain records pertaining to PCBs including the specific items of information as enumerated in 40 C.F.R. § 266.43(b)(6)(i) and (ii). The Facility's records will be modified to include the information for which Respondent was cited in the Complaint only if such information is available.
2. Within thirty days after the execution of this Consent Agreement and Final Order by Respondent, Respondent shall certify to Complainant that Respondent has instituted policies which will preclude a repetition of the practices for which Respondent was cited in Count II of the Complaint. Along with the certification Respondent will provide Complainant with a copy of the policy documentation, documentation showing a tracking system for each load of waste oil received, incoming waste analysis, the generator, the storage location and the ultimate disposal of that waste oil load.
3. Respondent shall provide Complainant within forty-five days after the execution of this Consent Agreement and Final Order by Respondent with a narrative description of Respondent's efforts to comply with the regulations cited in Count III of the Complaint. The narrative will include but not be limited to Respondent's maintenance of an up dated SPCC Plan as described in Section 761.65(c)(7)(ii), record format to be used to maintain the records required in Section 761.65(c)(8).
4. Respondent shall use its best efforts to adopt Quality Assurance Requirements similar to those set forth in Exhibit "B" attached hereto and by this reference incorporated herein. To the extent the provisions of Exhibit "B" conflict or duplicate any other provisions in this Consent Agreement and Final Order, the provisions of Exhibit "B" shall prevail. Respondent shall submit to Complainant within ninety days after the execution of this Consent Agreement and Final Order by Respondent a showing that Respondent has complied with the provisions of this Item 4. Respondent shall provide a full description of the Quality Assurance Requirements adopted by Respondent.

Respondent shall certify to Complainant no later than ninety days after execution of this Agreement by Respondent, 1) that the Facility is being operated in full compliance with T.S.C.A. and the implementing regulations and 2) the status of the task set forth in Items 1 - 3 above.

In the event Respondent is unable to complete any of the tasks to be completed prior to certification and within the time set out herein, Complainant will extend the time for performance upon Respondent's written request, provided Respondent can demonstrate to Complainant's reasonable satisfaction that Respondent has used its best efforts to meet the time limitation set forth herein.

Respondent shall submit to Complainant within ten consecutive days after the end of each calendar quarter for a period of four consecutive calendar quarters on and after the date of execution of this Agreement by Respondent, a complete report which shall indicate the status of the projects set out as Items 1 - 4 and Exhibits "A" in this Article V above. In the event that Respondent has completed all of the tasks and submitted all of the documentation, the report will not be required.

All submissions under this Consent Agreement and Final Order shall be addressed as follows:

Greg Czajkowski, Chief
Toxics Section
Pesticides and Toxics Branch
Air and Toxics Division
United States Environmental Protection Agency
Region 9
75 Hawthorne Street
San Francisco, California 94105

Respondent hereby agrees that its failure to fulfill the obligations as set forth in this Article V shall constitute an additional violation of T.S.C.A. which may subject Respondent to a penalty in the same amount as proposed in the Complaint.

VI

This Agreement does not relieve Respondent from compliance with monitoring and enforcement actions for TSCA violations not addressed by this Agreement, including but not limited to all non-civil

CONSENT AGREEMENT AND FINAL ORDER - Page 5

enforcement actions, or from enforcement actions under laws administered by state or local environmental authorities, except where TSCA would preempt such laws and the specific violations are governed by this Agreement. Complainant and Respondent agree that this Consent Agreement and Final Order is being entered into by the parties to this administrative proceeding in full settlement of all liabilities which might have attached as a result of the allegations set forth in the Complaint.

VII

In executing this Consent Agreement and Final Order, Respondent agrees to pay the civil penalty in accordance with the conditions and time frames specified in the Final Order set forth below. In accordance with the Debt Collection Act of 1982 and U.S. Treasury (TFRM 6-8000), payment must be received within thirty days after the execution of this Consent Agreement and Final Order to avoid additional charges. If not received within such time, interest will accrue from the date of execution at the current interest rate published by the U.S. Treasury. A late penalty charge of \$20.00 per thousand dollars of the proposed penalty will be imposed with an additional charge of \$10.00 for each subsequent 30-day period. A 6% per annum penalty will be applied on any principal amount not paid within ninety days of the due date. In addition, if payment is not made within the required time frame, Respondent shall be liable for the full amount of the civil penalty of SIXTY-FIVE THOUSAND DOLLARS as specified in the Final Order below.

VIII

The provisions of this Consent Agreement and Final Order shall be binding upon Respondent, its officers, directors, agents,

successors or assigns. Respondent's obligations under this Consent Agreement shall end when Respondent has performed all of the terms of the Consent Agreement in accordance with the Final Order. Complainant and Respondent consent to the entry of this Consent Agreement and Final Order without further notice.

Date

Respondent

Date

Director,
Air and Toxics Division, EPA
Region 9

///

///

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (Docket No. T.S.C.A.-09-90-0002) be entered and Respondent shall pay within thirty days after receipt of a fully executed copy of this Consent Agreement and Final Order by cashier's check or certified check, made payable to the Treasurer, United States of America, and addressed as follows:

EPA - Region 9
Regional Hearing Clerk
P. O. Box 360863M
Pittsburgh, PA 15251,

a civil penalty in the amount of THIRTY-FIVE THOUSAND DOLLARS. In the event Complainant determines that Respondent has failed to complete all of the tasks identified in Article V above within the specified time frames the balance of any unpaid portion of the full amount of the proposed penalty of SIXTY-FIVE THOUSAND DOLLARS shall be due within fifteen consecutive days after Respondent's receipt of an order of nonremittance. Such balance shall be paid by cashier's or certified check made payable to the Treasurer, United States of America and sent to the Pittsburgh address specified above. A copy of the check shall be sent to the EPA Region 9 address specified in Article V above within thirty days after the execution of this Consent Agreement and Final Order. This order shall become effective immediately.

Date

STEVEN W. ANDERSON
Regional Judicial Officer
EPA
Region 9

///

///

///

///